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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

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Telephone Number Portability)

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CC Docket No. 95-116
RM 8535

To: The Commission

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**REPLY COMMENTS OF
THE CALIFORNIA CABLE TELEVISION ASSOCIATION**

The California Cable Television Association ("CCTA"), pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, hereby submits these Reply Comments in response to the Commission's Notice of Proposed Rulemaking in the above-captioned proceeding.^{1/}

CCTA and the substantial majority of commenting parties agree that service provider number portability is an essential prerequisite to the development of meaningful, robust competition among alternative providers of local telephone and other telecommunications services.^{2/} As the Commission has recognized, studies presented by MCI and MFS Intelnet,

^{1/} In the Matter of Telephone Number Portability, CC Docket No. 95-116, Notice of Proposed Rulemaking, FCC 95-284, released July 13, 1995 ("NPRM").

^{2/} See, e.g., Comments of CCTA at 2, 7; Comments of Ad Hoc Coalition of Competitive Carriers ("Coalition") at 1-8; Comments of AT&T Corp. ("AT&T") at 2-4; Comments of General Services Administration ("GSA") at 2-5; Comments of Jones Intercable, Inc. ("Jones") at 2; Comments of MCI and MCI Metro ("MCI") at 2; Comments of National Cable Television Association ("NCTA") at 3, 5; Comments of Pacific Companies ("Pacific") at 2; Comments of Sprint Corporation ("Sprint") at 3-7; Comments of Teleport Communications Group ("TCG") at 3-6; Comments of Time Warner

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Inc. ("MFS") demonstrate that consumers place significant value on the presence of telephone number retention when considering whether to take service from competing telecommunications providers.^{3/} Although Pacific and other incumbent Local Exchange Carriers ("LECs") have sought to downplay these findings, even their own data, when properly interpreted, demonstrates that in the absence of service provider number portability, Competitive Local Carriers ("CLCs") will be denied effective access to large portions of their prospective markets.

The Commission should act swiftly to ensure that service provider number portability is implemented on a statewide, regional, and national basis. At the same time, however, CCTA concurs with the California Public Utilities Commission ("CPUC") that in shaping a national number portability policy, the FCC should refrain from hindering the implementation of number portability solutions by states that have made substantial progress toward facilitating local exchange competition.^{4/} Finally, while CCTA believes generally that it is premature to comment on specific number portability architectures, CCTA finds it necessary to point out that GTE and Pacific have each proposed portability architectures that would defeat the goals of service provider number portability. Accordingly, those proposals should be rejected.

^{2/}(...continued)
Communications Holdings, Inc. ("Time Warner") at 2-7.

^{3/} See NPRM at 9-10.

^{4/} See Comments of CPUC at 2-5.

I. Pacific's Studies Further Demonstrate That Service Provider Number Portability is Essential to the Development of Meaningful Local Competition

Initially, Pacific contends that the "competitive necessity of number portability has been vastly overstated" and that the "lack of service provider number portability is not a barrier to competition."^{5/} In support of these manifestly counter-intuitive assertions, Pacific submits the results of two surveys that were conducted among its business and residential customers which purportedly demonstrate that "a lack of number portability can easily be overcome."^{6/} Yet, when properly analyzed, these reports firmly support quite the opposite conclusion; namely, that consumers place significant value on number retention when considering whether or not to switch service providers. Hence, the absence of number portability would deter consumers from considering the use of alternative providers, thereby placing CLCs and other new entrants at a significant competitive disadvantage.

For instance, Pacific's Business Report indicates that in the absence of number portability, only 33 % of Pacific's medium-sized business consumers would be willing to switch service providers if offered a 15 % discount by an incumbent long distance company. If, however, number portability were offered, Pacific's research shows that the number of medium-sized business customers willing to switch carriers would grow to 50%, an increase in the alternative providers' potential customer base of approximately one-third.^{7/} Thus, in

^{5/} Pacific Comments at 3.

^{6/} See Id. at 6 and Attachment A, Analysis of Potential Local Access Competition and Interconnection Issues - Business Market- Final Report, prepared by ConStat, Inc. for Pacific Bell (May, 1995) (the "Business Report"); Analysis of Potential Local Access Competition and Interconnection Issues - Residence Market - Final Report, prepared by ConStat, Inc. for Pacific Bell (May, 1995) (the "Residence Report").

^{7/} See Id., Attachment A, Business Report at 19, 34, 53.

the absence of number portability, even an incumbent long distance carrier offering a 15% discount would be relegated to competing for approximately one-third fewer medium-sized business customers than it would have access to if number portability were an option. These are simply a few of the many figures presented in Pacific's research which illustrate that the absence of true service provider number portability creates a significant barrier to full and effective competition in the provision of local telephone services.

Seeking to place a positive spin on its data, Pacific asserts that a lack of service provider number portability is not a barrier to competition because businesses would be willing to switch their "secondary lines" to a new provider, even if they choose to retain their "main lines" with Pacific to avoid a number change.^{8/} Ironically, this data actually underscores the fact that number portability is essential to full and effective competition in the business market. Specifically, it shows that in the absence of number portability, CLCs and other new entrants would be precluded from effectively competing in the valuable "main line" market, while incumbent LECs would be free to market their services across all business lines. This would run counter to the Commission's goal of maximizing choice and competition across all market segments. There is simply no merit to Pacific's claim that number portability is unnecessary because CLCs and other new entrants will have the limited opportunity to compete for a fragment of the business market comprised of "secondary lines."

Pacific's contention that the significant competitive handicaps occasioned by a lack of number portability can be overcome by new entrants through pricing discounts is similarly

^{8/} See Id., Attachment A, Business Report at 18.

flawed.^{9/} Even assuming, arguendo, that Pacific's research accurately measures the willingness of consumers to switch services when offered a rate discount, the data indicates that to obtain any given level of penetration in the absence of number portability, consumers will require, on average, an extra discount of 11 % above any other discount already offered. Thus, Pacific's argument presents a new entrant with the untenable choice of either forfeiting its market share or lowering its rates significantly below what it ordinarily would charge in order to initiate or maintain service. Neither of these options is acceptable because both would stifle rather than promote local competition. Indeed, the need to provide such discounts could eliminate a new entrant's profit margin completely, thereby driving the provider right out of the market.

Finally, Pacific has neglected to mention a critical point that substantially undermines the veracity of its surveys. Specifically, since August 1994, Pacific has been advocating the use of area code overlays to relieve area code exhaustion throughout the state of California.^{10/} In the absence of service provider number portability, the presence of such an overlay would mean that when a customer switches local telephone providers, the

^{9/} See Pacific Comments at 3-4.

^{10/} An overlay involves superimposing a new area code on top of an existing one. With an overlay, existing customers retain their current area code and phone numbers, whereas new customers are assigned numbers out of the new area code. Pacific began formally supporting the use of overlays on August 17, 1994, when it submitted its plan for relief of the 310 area code in Los Angeles to the California Public Utilities Commission. Although the CPUC has ruled that Pacific may not implement an overlay in the absence of service provider number portability (see Decision 95-08-052), Pacific has continued to promote the use of overlays for the relief of the 310 and 818 area codes during public meetings and through filings at the CPUC. In fact, during the planning process for relief of the 619 area code (which covers an area larger than the Commonwealth of Pennsylvania), Pacific advocated the use of an overlay.

customer would be assigned a number out of the new area code. Although Pacific has been promoting overlays since before its number portability study was conducted, nowhere does the study raise the prospect that with an overlay and in the absence of number portability, a customer who switches to a CLC for local telephone service would likely be assigned not just a new telephone number, but also a new area code. Had Pacific properly included the area code overlay factor as a variable in its studies, the research would likely have shown that the absence of number portability poses an even more profound barrier to effective local competition than the significant impediments already revealed in the studies.

In short, the studies submitted by Pacific demonstrate exactly the opposite of what the company contends. Service provider number portability is of overwhelming competitive importance. Thus, while Pacific's interpretation of its data should be discounted, the studies' actual results should be viewed as further evidence that service provider number portability is a fundamental condition precedent to meaningful, vigorous competition in the local telephone market.

II. The FCC Should Allow State Regulators and Industry Groups to Move Forward with Trials and Implementation of Service Provider Number Portability Solutions.

As CCTA stated in its opening comments, the Commission should refrain from hindering the substantial progress that has been made in California and in other states toward implementing database solutions for service provider number portability.^{11/} In this regard, CCTA concurs wholeheartedly with the thrust of the CPUC's opening comments, which assert that it would be premature for the FCC to conclude that number portability solutions

^{11/} CCTA Comments at 8.

should be uniform at the local level. State testing may well demonstrate that diverse local solutions to the problem of number portability do not conflict with federal objectives and are not incompatible with a national solution.^{12/} Accordingly, CCTA urges the Commission to limit its role to setting broad guidelines which ensure that solutions developed at the state and regional levels can interface with a national solution. These guidelines should be accompanied by an aggressive schedule for implementation, strong incentives for compliance, and meaningful penalties for delay.

III. The Solutions Proposed By GTE and Pacific Will Not Serve the Public Interest and Should Be Rejected.

CCTA continues to believe that it is premature to comment on specific architectures for implementing service provider number portability. Nonetheless, CCTA is compelled at this point to oppose the solutions proposed by GTE and Pacific as antithetical to the FCC's desire to maximize choice and competition.^{13/}

The solution proposed by GTE would limit number portability to customers who are willing at the outset to change telephone numbers to obtain a non-geographic number.^{14/} Not only would this preclude CLCs and other new entrants from competing for customers who are unwilling or unable to change telephone numbers, but it also would disengage ported numbers from their geographic identities, thereby raising a plethora of significant policy issues associated with location portability.^{15/} Aside from these significant deficiencies,

^{12/} See CPUC Comments at 3.

^{13/} See GTE Comments at 7-14.

^{14/} Id. at 9.

^{15/} See, e.g., NPRM at ¶¶ 66-67; Ad Hoc Coalition Comments at 14.

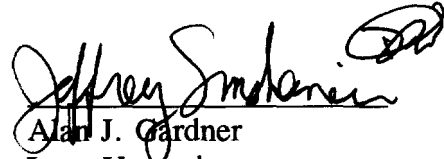
GTE's proposal contravenes the fundamental tenant that portability should not require any change in telephone numbers. Accordingly, CCTA respectfully submits that GTE's proposal merits no serious consideration.

Equally unacceptable is Pacific's proposed "Release to Pivot" ("RTP") solution, which also suffers from significant competitive deficiencies. For example, RTP would require ported calls to be routed initially through a "releasing switch" provided by the incumbent local service provider, thereby preserving the existing bottleneck monopoly enjoyed by incumbent LECs. Moreover, RTP would displace the routing and addressing preferences of CLCs and other alternative providers by requiring the use of routing and addressing schemes developed and implemented by the LECs. Additionally, it appears that RTP would permit the incumbent LECs to retain terminating access revenues because interexchange carriers would have to route all calls first to the incumbent LEC's Release switch rather than directly to the alternative provider. Moreover, RTP would require multiple exchanges of information between the Releasing switch and the Pivot switch that would likely cause call set-up and processing delays, particularly where those switches are not collocated. Thus, CCTA submits that RTP is an inferior alternative to the proposals offered by other commenting parties.

CONCLUSION

For the foregoing reasons, CCTA respectfully requests that the Commission adopt service provider number portability regulations that reflect the positions taken in CCTA's opening Comments and this submission.

Respectfully Submitted,



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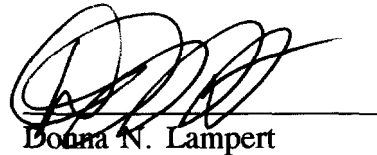
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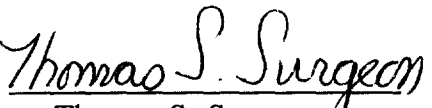
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Dated: October 12, 1995

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CERTIFICATE OF SERVICE

I, Thomas S. Surgeon, hereby certify that on this 12th day of October, 1995, a copy of the foregoing "Reply Comments Of The California Cable Television Association" was delivered by hand or by first-class mail, postage prepaid, to each of the parties listed below.


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